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8 *Attorneys for Petitioner*

9
10 **BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

12 **REJI VARGHESE,**
Interim Executive Director,
13 Medical Board of California,
Department of Consumer Affairs,
14 State of California,

Petitioner,

15 v.

16 **LES GURWITT, M.D.**
344 Abington Road
17 Encinitas, CA 92024

18 Physician's and Surgeon's Certificate
19 No. G14998,

Respondent.

Case No. 800-2022-086568

OAH Case No. 2023030153

**STIPULATION OF THE PARTIES RE
INTERIM SUSPENSION ORDER AND
ORDER**

[Gov. Code § 11529]

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22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Petitioner is the Interim Executive Director of the Medical Board of California
26 (Board). He brought this action solely in his official capacity and is represented in this matter by
27 Rob Bonta, Attorney General of the State of California, by Carolyn M. Westfall, Deputy Attorney
28 General.

2. Les Gurwitt, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

JURISDICTION

3. On or about July 18, 1968, the Board issued Physician's and Surgeon's Certificate No. G14998 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant herein, and will expire on September 30, 2024, unless renewed.

4. Pursuant to the provisions of California Government Code section 11529, an administrative law judge of the Medical Quality Hearing Panel established pursuant to section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. Interim orders may also be issued without notice if it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice.

FACTUAL BASIS FOR INTERIM SUSPENSION ORDER

5. Respondent admits that he has committed a violation or violations of a provision or provisions of the Medical Practice Act, that he is also presently unable to practice medicine safely due to a mental or physical condition, and that permitting him to continue to practice medicine would endanger the public health, safety and welfare. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

6. Respondent agrees to the issuance of an Interim Suspension Order under Government Code section 11529 immediately suspending his Physician's and Surgeon's Certificate No.

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1 G14998 and prohibiting him from practicing medicine in the State of California pending further
2 order from the Office of Administrative Hearings.

3 7. Based on the foregoing stipulations and agreements, the parties agree that an Interim
4 Suspension Order should be issued immediately suspending Respondent's Physician's and
5 Surgeon's Certificate No. G14998 and immediately prohibiting him from practicing medicine in
6 the State of California pending further order from the Office of Administrative Hearings.

7 8. Any motion to vacate the Interim Suspension Order issued in this case shall be filed
8 in accordance with the provisions of Title 1, California Code of Regulations, sections 1006 and
9 1022. However, no such motion may be heard on an *ex parte* basis and any motion to vacate the
10 Interim Suspension Order issued in this case shall be served on Petitioner's counsel and filed with
11 the Office of Administrative Hearings no less than thirty (30) business days prior to any hearing
12 on the motion. Once served and filed, no such motion shall be decided without first affording the
13 parties the opportunity to present oral argument.

14 WAIVERS

15 9. Respondent is fully aware of all of his rights under California Government Code
16 section 11529, subdivision (d), to a noticed hearing on the issue of whether an interim suspension
17 order should be issued in the above-entitled matter, and all other rights accorded him under
18 California Government Code section 11529, subdivision (d), at which he is entitled, at a
19 minimum, to all the following rights:

20 (a) To be represented by counsel.

21 (b) To have a record made of the proceedings, copies of which may be
22 obtained by the licensee upon payment of any reasonable charges associated with the
23 record.

24 (c) To present written evidence in the form of relevant declarations,
25 affidavits, and documents. The discretion of the administrative law judge to permit
26 testimony at the hearing conducted pursuant to this section shall be identical to the
27 discretion of a superior court judge to permit testimony at a hearing conducted
28 pursuant to Section 527 of the Code of Civil Procedure.

1 (d) To present oral argument.

2 10. Respondent hereby knowingly, intelligently, freely and voluntarily waives and
3 gives up each and every one of the rights set forth and/or referenced in paragraph 9, above.

4 11. Respondent is fully aware of all of his rights under Government Code section
5 11529, subdivisions (f) and (g), which state as follows:

6 (f) In all cases where an interim order is issued, and an accusation is
7 not filed and served pursuant to Sections 11503 and 11505 within 15 days of the
8 date in which the parties to the hearing on the interim order have submitted the
9 matter, the order shall be dissolved. Upon service of the accusation the licensee
10 shall have, in addition to the rights granted by this section, all of the rights and
11 privileges available as specified in this chapter. If the licensee requests a hearing
12 on the accusation, the board shall provide the licensee with a hearing within 30
13 days of the request, unless the licensee stipulates to a later hearing, and a decision
14 within 15 days of the date the decision is received from the administrative law
15 judge, or the board shall nullify the interim order previously issued, unless good
16 cause can be shown by the Division of Medical Quality for a delay.

17 (g) Where an interim order is issued, a written decision shall be
18 prepared within 15 days of the hearing, by the administrative law judge, including
19 findings of fact and a conclusion articulating the connection between the evidence
20 produced at the hearing and the decision reached.

21 12. Respondent hereby knowingly, intelligently, freely and voluntarily waives and
22 gives up each and every the of the rights set forth and/or referenced in paragraph 11, above.

23 13. Respondent hereby specifically, knowingly, intelligently, freely and voluntarily
24 waives and gives up his right to the expedited filing of an accusation, an expedited hearing on the
25 accusation, and an expedited issuance of a proposed decision, all of which he is entitled to under
26 Government Code section 11529, subdivisions (f) and (g).

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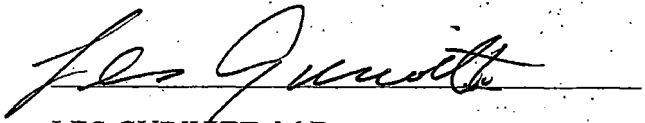
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ADDITIONAL PROVISIONS

14. The parties hereby stipulate that all proceedings in the above-entitled Interim Suspension Order matter shall be conducted at the Office of Administrative Hearings located in San Diego, California.

15. The parties further stipulate that copies of this "Stipulation of the Parties Re Interim Suspension Order and Order," including copies of signatures appearing thereon, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

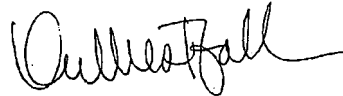
Dated: March 14, 2023



LES GURWITT, M.D.
Respondent

Dated: March 17, 2023

ROB BONTA
Attorney General of the State of California
ALEXANDRA M ALVAREZ
Supervising Deputy Attorney General

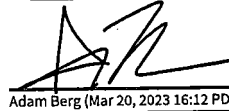


By KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Petitioner

1 **INTERIM SUSPENSION ORDER**

2 Based on the foregoing stipulations and agreements, an Interim Suspension Order is
3 hereby issued immediately suspending Physician's and Surgeon's Certificate No. G14998
4 heretofore issued by the Medical Board of California to Respondent Les Gurwitt, M.D., and,
5 accordingly, Respondent is hereby immediately prohibited from practicing medicine in the State
6 of California pending further order from the Office of Administrative Hearings. Any motion to
7 vacate this Interim Order of Suspension shall be filed in accordance with the provisions of Title 1,
8 California Code of Regulations, sections 1006 and 1022. However, no such motion may be heard
9 on an *ex parte* basis and any motion to vacate this Interim Order of Suspension shall be served on
10 Petitioner's counsel and filed with the Office of Administrative Hearings no less than thirty (30)
11 business days prior to any hearing on the motion. Once served and filed, no such motion shall be
12 decided without first affording the parties the opportunity to present oral argument.

13 IT IS SO ORDERED this 20 day of March, 2023.

14 
15 Adam Berg (Mar 20, 2023 16:12 PDT)

16 ADMINISTRATIVE LAW JUDGE
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